



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 29, 1995

Mr. Donald G. Vandiver  
First Assistant Attorney  
City of Lubbock  
P.O. Box 2000  
Lubbock, Texas 79457

OR95-303

Dear Mr. Vandiver:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31301.

The City of Lubbock (the "city") received two open records requests for copies of the city health department's inspection reports for a certain restaurant for the years 1990 through 1994. You state that the city has released the inspection reports to the requestors; however, certain information tending to reveal the identities of the complainants was redacted. You have submitted to this office for review the requested inspection reports and contend that the information you have marked may be withheld from the public pursuant to the informer's privilege, as incorporated into section 552.101 of the Government Code.

The "informer's privilege" aspect of section 552.101 protects the identity of persons who report violations of a civil or criminal statute. *See* Open Records Decision Nos. 391 (1983), 191 (1978). Although the privilege ordinarily applies to the efforts of law enforcement agencies, it can apply to administrative officials with a duty of enforcing particular laws. Attorney General Opinion MW-575 (1982); Open Records Decision Nos. 285 (1981), 279 (1981); *see also* Open Records Decision No. 208 (1978).

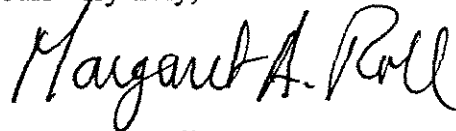
In this instance, it is apparent to this office that the complainants were reporting a potential violation of city ordinances governing public health that the health department is responsible for enforcing. Accordingly, the informer's privilege is applicable here.

However, one of the "informants" is identified only as an employee of the restaurant. This information alone is not sufficiently specific to enable the restaurant's management to identify this particular individual; consequently, this information must be released.

We also note that in one of the inspection reports concerning an alleged violation of the city's smoking ordinance the management remembers the incident giving rise to the inspection and the individual involved who filed the complaint. Because part of the purpose of the privilege is to prevent retaliation against informants, the privilege does not apply when the informant's identity is known to the individual who is the subject of the complaint. *See Open Records Decision No. 208 (1978)*. Consequently, the city may not withhold this individual's identity if his identity is already known to the management of the restaurant. The remaining information you have marked in the inspection reports may be withheld pursuant to the informer's privilege.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll  
Assistant Attorney General  
Open Government Section

MAR/RWP/rho

Ref.: ID# 31301

Enclosures: Submitted documents

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